IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6109 of 2005

Between:

M/s. Ravi Automobiles, Peddapadu Road, Srikakulam,
rep. by its Managing Partner Sri D.Ravindra Babu, S/o. Late Krishna Murthy aged about 34 years, R/o. 3-7-221, Kattera Street, Srikakulam - 532001.

..... PETITIONER

AND

The Asst. P.F. Commissioner, Employees Provident Fund Sub-Regional Office, VUDA Layout, N.A.D.Post, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or direction more in the nature of a writ of mandamus declaring that the writ petitioner is entitled to file appeal against the order dt.29-01-2004 of the Asst. P.F. Commissioner, Visakhapatnam passed in Enquiry No.117/2003 before the Appellate Tribunal constituted under Employees Provident Funds and Misc. Provisions Act, 1952 and pass such other order or orders.

Counsel for the Petitioner : MR. K.S.MALLIKARJUNA RAO

Counsel for the Respondent : MR.R.N.REDDY (SC FOR EMPLOY'S PF ORG.)

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.6109 OF 2005

ORDER :

By order dated 29-01-2004 passed by the respondent under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, the Act'), it was decided that the petitioner is liable to remit an amount of Rs.1,51,635-60 ps towards the arrears of PF contributions for the period from 2/2002 to 7/2003. The petitioner states that the said order being an ex parte order, he filed a Review Petition, but the same was rejected. Hence, this writ petition.

Though the learned Counsel for the petitioner urged various grounds contending that the proceedings initiated under Section 7-A of the Act itself were illegal and not in accordance with the provisions of the Act, the learned Standing Counsel at the outset submits that the petitioner ought to have availed the remedy of

Appeal as available under Section 7-I of the Act. It is also brought to my notice that similar matters have been disposed of by this Court granting liberty to prefer an Appeal under Section 7-I of the Act within a period of four weeks. The learned Counsel for both the parties stated that this matter can also be disposed of with similar directions.

Accordingly, the Writ Petition is disposed of granting leave and liberty to the petitioner to work out the remedy of appeal as available under the Act. If any such appeal is preferred against the order dated 29-1-2004 within a period of four weeks from the date of receipt of this order, the same shall be entertained and appropriate orders be passed in accordance with law. It is further ordered that there shall be interim stay of the impugned order dated 29-01-2004 subject to condition that the petitioner deposits 50% of the amount demanded within six weeks from today. However, in default, it is open to the respondent to take appropriate steps on the basis of the impugned proceedings dated 29-01-2004. No costs.

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24th March, 2005.

Note :- CC in 2 days.

(B/O)

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To

1. The Asst. P.F. Commissioner, Employees Provident Fund Sub-Regional Office, VUDA Layout, N.A.D.Post, Visakhapatnam.

2. Two CD copies